IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

WP(C).No. 34387 of 2005(R)

PETITIONER:

K.NIRMALA, U.D.CLERK, OFFICE OF THE DEPUTY DIRECTOR OF EDUCATION, KOZHIKODE, RESIDING AT NANDANAM, P.O.MEDICAL COLLEGE, CALICUT.

BY ADV. SRI.R.K.MURALEEDHARAN

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GENERAL EDUCATION (C) DEPARTMENT, THIRUVANANTHAPURAM.**

2. **THE DEPUTY DIRECTOR OF EDUCATION, KOZHIKODE.**

BY GOVERNMENT PLEADER SMT.K.R.DEEPA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.34387/2005

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE CERTIFICATE OF BIRTH.

EXT.P2:- COPY OF THE CERTIFICATE DT. 26.12.92 BY THE TAHSILDAR , KOZHIKODE.

EXT.P3:- COPY OF THE SANCTION ORDER CONDONING THE DELAY IN APPLYING FOR CORRECTION OF THE DATE IN THE SSLC BOOK.

EXT.P4:- COPY OF THE REPRESENTATION DT. 16.2.95 BEFORE THE COMMISSIONER FOR GOVERNMENT EXAMINATION.

EXT.P5:- COPY OF THE PROCEEDINGS OF THE COMMISSIONER FOR GOVERNMENT EXAMINATIONS NO.K.DIS. 7651/93/ EX.B5. DT. 14.9.95.

EXT.P6:- COPY OF THE CORRECTION ENTERED IN THE SSLC BOOK.

EXT.P7:- COPY OF THE COMMUNICATION NO.5267/ C1/96/G.EDN. DT. 27.7.96 ISSUED BY 1ST RESPONDENT TO THE 2ND RESPONDENT.

EXT.P8:- COPY OF THE G.O.(P) 45/91/P & ARD DT. 30.12.91.

EXT.P9:- COPY OF THE REPRESENTATION DT. 13.9.99 .

EXT.P10:- COPY OF THE ORDER NO.51947/C1/G.EDN. DT, 24.11.99 OF THE 1ST RESPONDENT.

EXT.P11:- COPY OF THE REPORT OF THE 2ND RESPONDENT TO THE 1ST RESPONDENT DT. 9.12.2002.

EXT.P12:- COPY OF THE ORDER REJECTING THE APPLICATION BY THE 1ST RESPONDENT DT. 22.1.03.

EXT.P13:- COPY OF THE ORDER NO. G.O.(Rt) 2225/95/G.EDN. DT.30.6.95 ISSUED BY THE 1ST RESPONDENT IN FAVOUR OF K.KRISHNANKUTTY NAIR.

EXT.P14:- COPY OF THE ORDER IN G.O. (Rt) NO.426/95/EDN.. DT. 20.5.95 ISSUED BY THE 2ND RESPONDENT IN FAVOUR OF SR.SHEEBA.

EXT.P15:- COPY OF THE ORDER IN G.O. (Rt) 2094/05/G.EDN. DT. 23.5.05.

EXT.P16:- COPY OF THE ORDER NO.10666/C1/05/G.EDN. DT. 13.7.05 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

/TRUE COPY/

tss

KURIAN JOSEPH, J.

W.P. (C). NO. 34387 OF 2005

Dated this the 15th day of June, 2007.

J U D G M E N T

Petitioner, a U.D. Clerk in Government service, is aggrieved since her date of birth is not corrected in the service book despite correction in the school records. According to the petitioner, the application was filed before the Commissioner for Examination on 26.12.1992. The correct date of birth is 02.12.1953 and not 21.10.1952 as wrongly entered in the SSLC book.

2. The Commissioner for Examinations passed Exhibit P5 order correcting the date of birth. It is seen from the order itself that the application is filed on 26.12.1992. However, the order was passed only in 1995. Thus, it can be seen that it is not as if the petitioner got the records corrected on the eve of retirement. Even as on the date of the order passed by the Commissioner for Examinations, the petitioner had more than a decade of service to retire. It is not as if the order is passed on the eve of retirement upsetting the hopes of those in the lower category.

3. It is seen from Exhibits P13, P14 and P15 that the Government entertained applications for correction of date of

birth on the verge of retirement. It is the contention of the petitioner that the basis of the entry of date of birth in the school records having undergone a change based on Exhibit P5, there is no justification in not effecting consequential change in the service records. It is also submitted that in several cases where the employees had approached the Commissioner for Examinations prior to 31.12.1992, the Government had entertained correction in the service records. Some of the instances are Exhibits P13, P14 and P15. The only reason stated in Exhibit P16 is that the petitioner did not apply within one year period prescribed in the Government order dated 30.12.1991.

4. As already observed above, petitioner applied before the Commissioner for Examinations within the said period of one year and in several cases Government has granted consequential correction also. Therefore, I do not find any justification in discriminating the petitioner, since the Government itself has deviated from the policy not in one case, but in many cases, three of which are produced in this writ petition and this Court has also come across several such orders.

Hence, I quash Exhibit P16 and the orders leading to the same with a direction to the Government to effect the correction of date of birth in the service records as per the correction effected in the SSLC book as early as in 1995, within a period of one month from the date of production of a copy of this judgment.

This writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

smp